

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

UNITED STATES OF AMERICA

CRIM. ACTION NO. 12-00142

VERSUS

JUDGE ROBERT G. JAMES

SHONDOLYN ROCHELLE BLEVINS

MAG. JUDGE JOSEPH PEREZ-MONTES

MEMORANDUM ORDER

Pending before the Court is a Motion to Prohibit Transfer [Doc. No. 213] filed by Defendant Shondolyn Blevins (“Blevins”). Blevins moves the Court to prohibit the Bureau of Prisons (“BOP”) from transferring her away from her current facility relying on Federal Rule of Appellate Procedure 23.

Pursuant to 18 U.S.C. § 3621(b), Congress gave BOP the exclusive power to designate the place of incarceration throughout the term of incarceration and to transfer the prisoner “at any time.” However, Rule 23(a) of the Federal Rules of Appellate Procedure requires a custodian to obtain authorization for the transfer from the Court of Appeals if the prisoner has a pending habeas petition. Rule 23(a) provides: “Pending review of a decision in a habeas corpus proceeding commenced before a court . . . of the United States for the release of a prisoner, the person having custody of the prisoner must not transfer custody to another unless a transfer is directed in accordance with this rule. When, upon application, a custodian shows the need for a transfer, the court, justice, or judge rendering the decision under review may authorize the transfer and substitute the successor custodian as a party.” FED. R. APP. P. 23(a).

Blevins has a pending appeal on her motion to vacate, set aside or reduce sentence pursuant

to 28 U.S.C. § 2255. Thus, it would appear that Appellate Rule 23 may apply in this case. However, this Court lacks jurisdiction over Blevins' motion. Given the nature of Blevins' motion and the pending § 2255, the Court finds that transfer of the matter to the United States Court of Appeals for the Fifth Circuit is in the interest of justice. *See* 28 U.S.C. § 1631; *see also* *Day v. Samuels*, No. CIV. 07-3443(RMB), 2007 WL 2212718, at *3–4 (D. N.J. July 30, 2007). Therefore,

IT IS ORDERED that Blevins' motion [Doc. No. 213] is TRANSFERRED to the Fifth Circuit.
MONROE, LOUISIANA, this 12th day of October, 2016.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE